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E.O. 12958: DECL: 06/21/10
 TAGS: EPET, ENRG, PTER, PGOV, EINV, CO
 SUBJECT: OXY ANGST

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UNITED STATES DEPARTMENT OF STATE
 REVIEW AUTHORITY: OSCAR J OLSON
 DATE/CASE ID: 19 MAY 2004 200303455

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CLASSIFIED BY AMBASSADOR CURTIS W. KAMMAN. REASONS:
1.5(B) AND (D)

SUMMARY

1. (C) OCCIDENTAL PETROLEUM (OXY) IS FACING ANOTHER LEGAL MANEUVER BY THE U'WA INDIANS SEEKING TO STOP IT FROM BEGINNING EXPLORATORY DRILLING AT ITS GIBRALTAR 1 SITE IN ITS SAMORE BLOCK CONCESSION IN EASTERN COLOMBIA. THE U'WA, HAVING BOUGHT PROPERTY NEAR THE PROPOSED DRILLING SITE, HAVE REQUESTED A COURT ORDER INVALIDATING A PREVIOUSLY GRANTED RIGHT-OF-WAY FOR OXY'S ACCESS ROAD.

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LEGAL WRANGLING

2. (C) AN ATTORNEY REPRESENTING THE "ASSOCIATION OF TRADITIONAL U'WA AUTHORITIES" HAS FILED A REQUEST FOR A "TUTELA" BEFORE A SUPERIOR COURT IN NORTE DE SANTANDER DEPARTMENT, WHICH WOULD ORDER LOCAL AUTHORITIES IN THE MUNICIPALITIES OF TOLEDO AND GIBRALTAR TO INVALIDATE A RIGHT-OF-WAY PREVIOUSLY GRANTED TO OXY FOR A ROAD TO ITS PLANNED GIBRALTAR 1 DRILLING SITE. (A TUTELA IN ESSENCE IS A REQUEST FOR AN INJUNCTION BASED UPON A VIOLATION OF FUNDAMENTAL CONSTITUTIONAL RIGHTS.) THE REQUEST FOR THE ORDER, WHILE CITING A WIDE RANGE OF DOMESTIC AND UNITED NATIONS LEGAL AUTHORITIES ON THE FUNDAMENTAL RIGHTS OF INDIGENOUS PEOPLES, IS AT HEART BASED UPON SIMPLE PROPERTY LAW. IT ASSERTS THAT THE U'WA ARE IN FACT THE OWNERS OF CERTAIN SPECIFIC PIECES OF LAND THROUGH WHICH THE LOCAL AUTHORITIES GAVE OXY THE RIGHT-OF-WAY, AND THAT THE RIGHT-OF-WAY WAS GRANTED WITHOUT PROVIDING ADEQUATE NOTICE TO THE PROPERTY OWNERS AND OTHERWISE OBSERVING PROCEDURAL

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REQUIREMENTS.

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4. (C) IF THE COURT CONSIDERING THE TUTELA REQUEST DENIES IT, OXY CAN CONTINUE WITH ITS ACTIVITIES AT GIBRALTAR 1. SHOULD THE COURT GRANT IT, THEY WOULD BE HALTED FOR AT LEAST SIX WEEKS UNTIL THE SUPREME COURT IN BOGOTA COULD REVIEW THE ISSUE. THIS IS WHAT HAD HAPPENED IN LATE MARCH, WHEN A TRIAL COURT IN CUNDINAMARCA (GREATER BOGOTA) DEPARTMENT HAD ISSUED A TUTELA, BASED ON SOMEWHAT DIFFERENT ARGUMENTS (RELATING TO AN ALLEGED OBLIGATION ON OXY'S PART UNDER ENVIRONMENTAL/INDIGENOUS LAW GROUNDS TO

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CONSULT WITH THE U'WA EVEN THOUGH OXY'S OPERATIONS WERE
OUTSIDE ITS RESERVATION). WHILE OXY ULTIMATELY PREVAILED
AT A HIGHER LEVEL, IT IS PAYING THE PRICE FOR DELAYS, AS
DRILLING PREPARATIONS WILL NOW HAVE TO TAKE PLACE IN THE
RAINY SEASON, WHEN THERE WILL BE MANY WORK DAYS LOST TO
BAD WEATHER.

SECURITY AT A PRICE

5. (C) [REDACTED]

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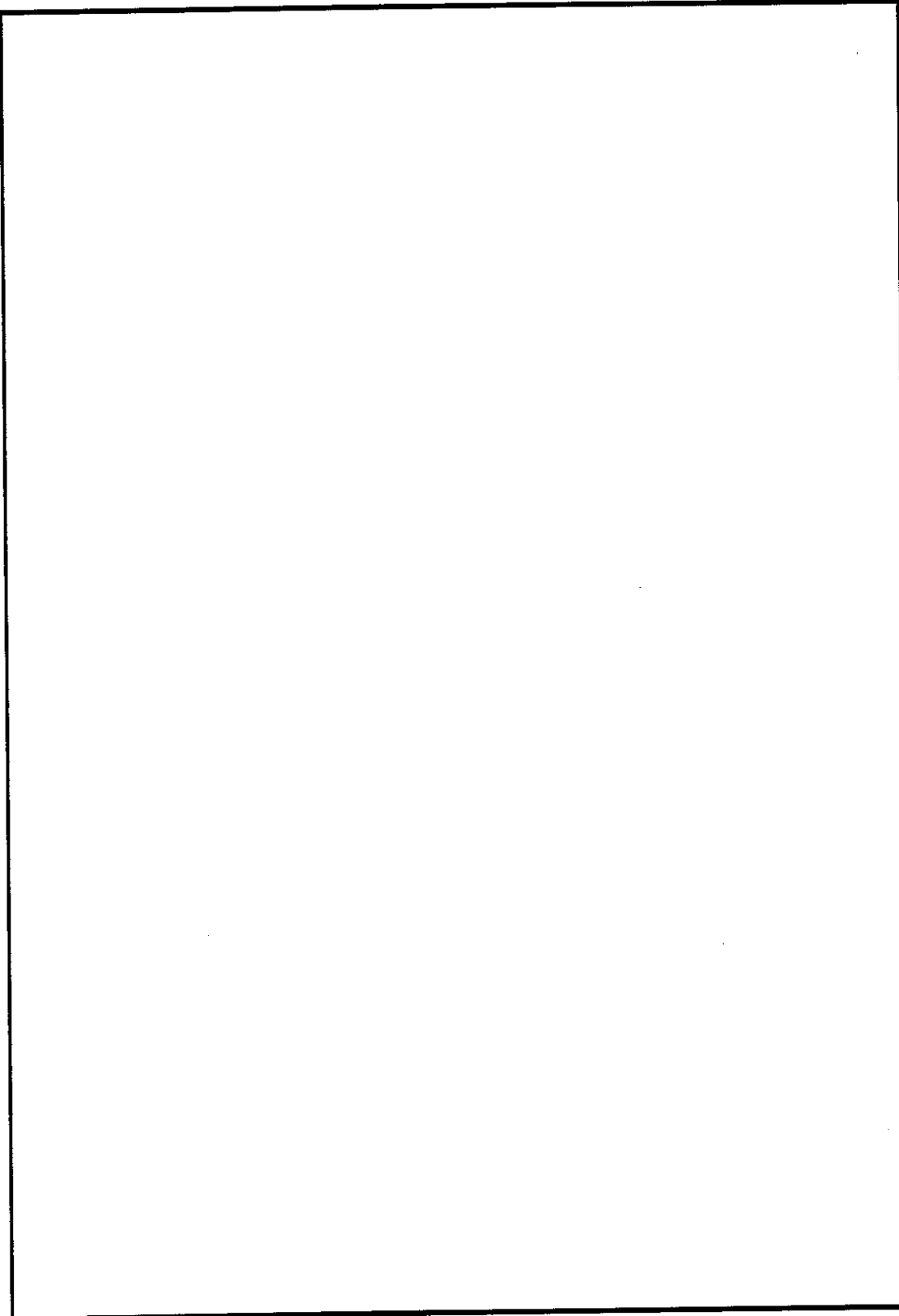
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